

Virginia Coastal Resources Management Program
Public Notice of Updates to the Enforceable Policies of the Program
for which Federal Consistency will apply
Comment Period January 9, 2006-February 10, 2006

Notice of intended action: This public notice is to inform interested parties of the Virginia Coastal Resources Management Program's intention to update the enforceable policies incorporated into the Program and to invite the public to comment on this change.

Purpose of the notice: The Coastal Zone Management Act (15 C.F.R. §923.84) requires state Coastal Zone Management Programs to formally incorporate changes made to the laws and policies that are used for Federal Consistency. The changes discussed here have already been made to each statute and regulation, the purpose of this action is to incorporate these changes into the Virginia Coastal Resource Management Program. These changes are considered to be Routine Program Changes, and therefore do not significantly affect the (1) uses subject to management; (2) special management areas; (3) boundaries; (4) authorities and organization or (5) coordination, public involvement and national interest components of the Virginia Coastal Resources Management Program. Upon concurrence by the National Oceanic and Atmospheric Administration, the policies discussed below will be incorporated into the Program.

A summary of the updates to the Virginia Coastal Resources Management Program is as follows:

- (1) **Virginia Subaqueous Lands Management (Code of Virginia Title 28.2, Chapter 12)** - The statutory provisions being submitted are primarily recodifications giving new section numbers to the statutory provisions already approved by NOAA as part of the original program in 1986. In addition to the renumbering, there have been other minor updates to the program, including the renaming of the fee and royalty fund, further clarification of what small noncommercial piers can be constructed without Commission permits, inclusion of submerged aquatic vegetation among the factors considered in management of subaqueous lands, and provisions further supporting existing authority for removal of hazardous structures and sinking vessels. This Program Change incorporates the revised Subaqueous Lands Management statutes into the Program.
- (2) **Virginia Water Protection Permit Program (Code of Virginia Title 62.1, Chapter 3.1 and 9 VAC 25-210-10 et seq.)** - This change addresses the permitting of activities in wetlands under the Virginia Water Protection Permit Program, specifically providing separate authority from Federal Clean Water Act jurisdiction. The change preserves Virginia's authority over activities in state waters, including wetlands, regardless of federal authority. The VWPP authority both "provides a state regulatory framework for implementation of federal 401 authority [and] ... also emphasizes the interest of the General Assembly and the State Water Control Board that this authority be used to protect minimum instream flow levels and to regulate activities which may damage nontidal wetlands." With incorporation of the current submitted change, the VWPP continues to do both of these things. This Program Change incorporates the Virginia Water Protection Permit Program statutes and regulations into the Program.

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How to Comment: Comments on these proposed changes should be submitted in writing directly to the National Oceanic and Atmospheric Administration **by February 10, 2006** at the following address:

Mr. Bill O'Beirne
Coastal Programs Division/ OCRM
SSMC4, N/ORM3, Room 11110
1305 East West Highway
Silver Spring, MD 20910
(301) 713-3155 Ext. 160

To review documents: The text of these changes as well as an analysis of their implication to the Virginia Coastal Resources Management Program is available on the Virginia Coastal Resources Management Program's web site beginning January 9, 2006 at www.deq.virginia.gov/coastal

If you require paper copies of any of these documents, please contact the Virginia Coastal Resources Management Program through Rachel Bullene at (804) 698-4122.